Supreme Court, U.S.
FILED

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No.

In the Supreme Court of the United States

PHIL CRAWFORD, INTERIM FIELD OFFICE DIRECTOR, PORTLAND, OREGON, UNITED STATES IMMIGRATION AND CUSTOMS ENFORCEMENT, ET AL., PETITIONERS

v.

SERGIO SUAREZ MARTINEZ

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

PETITION FOR A WRIT OF CERTIORARI

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QUESTION PRESENTED

In *Zadvydas* v. *Davis*, 533 U.S. 678 (2001), this Court avoided constitutional concerns by interpreting 8 U.S.C. 1231(a)(6) to limit to a "reasonable time" the period that permanent resident aliens may be detained following final orders directing their removal from the United States. Applying that standard, the Court held that a resident alien generally may not be detained under Section 1231(a)(6) for more than six months after being ordered removed, if the alien demonstrates that there is not a significant likelihood of removal in the reasonably foreseeable future. The question presented in this case is whether Section 1231(a)(6) and *Zadvydas* compel the release of an arriving alien who was apprehended at the border of the United States, denied admission, and ordered removed from the United States.

PARTIES TO THE PROCEEDINGS

Petitioner Phil Crawford, Interim Field Office Director, Portland, Oregon, United States Immigration and Customs Enforcement, is the successor to Ronald J. Smith, District Director, District of Oregon, Immigration and Naturalization Service, who was a respondent below. John Ashcroft, Attorney General of the United States, also is a petitioner and was a respondent below.

Respondent is Sergio Suarez Martinez.

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In the Supreme Court of the United States

No.

PHIL CRAWFORD, INTERIM FIELD OFFICE DIRECTOR, PORTLAND, OREGON, UNITED STATES IMMIGRATION AND CUSTOMS ENFORCEMENT, ET AL., PETITIONERS

v.

SERGIO SUAREZ MARTINEZ

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

PETITION FOR A WRIT OF CERTIORARI

The Solicitor General, on behalf of the Interim Field Office Director, Portland, Oregon, of United States Immigration and Customs Enforcement, Department of Homeland Security, and the Attorney General of the United States, respectfully petitions for a writ of certiorari to review the judgment of the United States Court of Appeals for the Ninth Circuit in this case.[1]

[1] On March 1, 2003, functions of several border and security agencies, including certain functions of the former Immigration and Naturalization Service (INS), were transferred to the Department of Homeland Security and assigned within that Department to the entity now known as United States Immigration and Customs Enforcement. See Homeland Security Act of

OPINIONS BELOW

The order of the court of appeals (App., *infra*, 1a) is unreported. The order of the district court (App., *infra*, 2a) is unreported.

JURISDICTION

The judgment of the court of appeals was entered on August 18, 2003. On November 7, 2003, Justice O'Connor extended the time within which to file filing a petition for a writ of certiorari to and including December 16, 2003. The jurisdiction of this Court is invoked under 28 U.S.C. 1254(1).

STATEMENT

1. Respondent is one of approximately 125,000 Cuban nationals, many of them convicted of crimes in Cuba, who attempted to enter the United States illegally during the 1980 Mariel boatlift. After Cuba refused to accept the return of Mariel Cubans who were stopped at the border and denied entry into the United States, the Attorney General, through the Immigration

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2002, Pub. L. No. 107-296, § 441(2), 116 Stat. 2192 (to be codified at 6 U.S.C. 251(2)). Petitioner Crawford is the successor to the INS District Director who was named as a respondent to the habeas corpus petition in the district court. The Attorney General also was named as a habeas corpus respondent in the district court. The position of the government, however, is that the Attorney General is not a proper habeas corpus respondent in this action concerning an alien's detention. See *Roman* v. *Ashcroft*, 340 F.3d 314, 318-327 (6th Cir. 2003); *Vasquez* v. *Reno*, 233 F.3d 688 (1st Cir. 2000), cert. denied, 534 U.S. 816 (2001); *Yi* v. *Maugans*, 24 F.3d 500, 507 (3d Cir. 1994); but see *Armentero* v. *INS*, 340 F.3d 1058, 1061 (9th Cir. 2003) (determining that Attorney General is proper habeas respondent in "circumstances specific to the situation of immigration detainees"), petition for rehearing en banc pending, No. 02-55368 (9th Cir.).

and Naturalization Service, soon paroled all but a few hundred of those Cubans into this country pursuant to his discretionary authority under 8 U.S.C. 1182(d)(5) (1976 & Supp. IV 1980). See generally *Fernandez-Roque* v. *Smith*, 734 F.2d 576, 578-579 (11th Cir. 1984); *Palma* v. *Verdeyen*, 676 F.2d 100, 101-102 (4th Cir. 1982).

Section 1182(d)(5)(A) then authorized, and as amended continues to authorize, the Attorney General (now the Secretary of Homeland Security, see note 1, *supra*) to parole aliens applying for admission to the United States into the country "temporarily under such conditions as he may prescribe" and only for "urgent humanitarian reasons or significant public benefit," but it provides that "such parole of such alien shall not be regarded as an admission of the alien." 8 U.S.C. 1182(d)(5)(A). Section 1182(d)(5)(A) also provides that when, in the opinion of the Attorney General, the purposes of the alien's parole have been served, the alien shall forthwith be returned to custody, "and thereafter his case shall continue to be dealt with in the same manner as that of any other applicant for admission to the United States."

In 1984, the United States and Cuba reached an accord concerning immigration between the two countries, including the return to Cuba of 2746 specified individuals with serious criminal backgrounds or mental infirmities. See Immigration Joint Communique Between the United States of America and Cuba, Dec. 14, 1984, T.I.A.S. No. 11,057, 1984 WL 161941. Approximately 1652 Mariel Cubans have been repatriated to Cuba under the 1984 accord. The most recent repatriations occurred in October and December 2003. See generally *Gisbert* v. *United States Attorney*

General, 988 F.2d 1437, 1439 n.4 (5th Cir. 1993) (discussing repatriations).

Pursuant to Section 1182(d)(5)(A), the Attorney General promulgated regulations in 1987 governing the parole and revocation of parole of Mariel Cubans (defined to include any native of Cuba who last came to the United States between April 15, 1980, and October 20, 1980) pending either an exclusion hearing or the alien's return to Cuba or another country. See 8 C.F.R. 212.12; 52 Fed. Reg. 48,802 (1987). Those regulations supplement the general regulations governing the parole and release of aliens who are seeking admission to the United States. See 8 C.F.R. 212.5, 241.4.

In 1990, Congress added a new statutory provision, 8 U.S.C. 1226(e) (1994), which limited the Attorney General's power to release certain excludable, criminal aliens on parole. See Immigration Act of 1990, Pub. L. No. 101-649, § 504(b), 104 Stat. 5050. Section 1226(e)(1) provided that, "[p]ending a determination of excludability, the Attorney General shall take into custody any alien convicted of an aggravated felony." 8 U.S.C. 1226(e)(1) (1994). Section 1226(e)(2) and (3) then provided that the Attorney General "shall not release such felon from custody" unless the Attorney General determined under 8 U.S.C. 1253(g) (1994) that the alien's country of removability would not accept his return and, *inter alia*, the Attorney General concluded, after review of the alien's request for release and the severity of the alien's felony, that "the alien will not pose a danger to the safety of other persons or to property." 8 U.S.C. 1226(e)(2) and (3) (1994). Section 1226(e) otherwise left unaffected the Attorney General's discretion to grant, deny, or revoke parole under Section 1182(d)(5)(A).

In the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA), Pub. L. No. 104-208, Div. C, § 241, 110 Stat. 3009-546, Congress added a new Section 1231 to Title 8 of the United States Code. Section 1231(a)(2) requires the detention, during the statutory 90-day removal period, of aliens who have been ordered removed from the United States, including aliens who have been stopped at the border and were regarded as "excludable" under prior law.[2] Section 1231(a)(6) then provides that an alien ordered removed who is inadmissible under 8 U.S.C. 1182 or deportable for the commission of a specified crime, or who has been determined by the Attorney General to be a risk to the community or unlikely to comply with the order of removal, "may be detained beyond the [90-day] removal period."

2. In June 2001, this Court decided *Zadvydas* v. *Davis*, 533 U.S. 678, which addressed the legality of the continued detention under 8 U.S.C. 1231(a)(6) of aliens who initially had been granted the status of lawful permanent residents and later were ordered removed, but who could not be removed within the 90-day statutory removal period. The Court construed Section 1231(a)(6) "to contain an implicit 'reasonable time'

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[2] Before IIRIRA, aliens subject to removal from the United States were divided into two statutory categories. Aliens seeking admission and entry into the United States were "excludable." See *Landon* v. *Plasencia*, 459 U.S. 21, 25, 28 (1982); 8 U.S.C. 1182 (1994). Aliens who had gained lawful admission to the United States or entered without permission were "deportable." See 8 U.S.C. 1251 (1994). Under IIRIRA, the new statutory category of "inadmissible" aliens includes both aliens who have not entered the country and formerly were termed "excludable," and aliens who entered the United States without permission and formerly were termed "deportable." See 8 U.S.C. 1182(a).

limitation." 533 U.S. at 682. In particular, to avoid "a serious constitutional problem," *id.* at 690, that would arise from indefinite detention of the former permanent resident aliens, the Court construed the Attorney General's authority to detain such aliens under Section 1231(a)(6) to be limited to the period of time reasonably necessary to remove them from the United States. *Id.* at 689. After that point, the Court reasoned, "detention no longer 'bears a reasonable relation to the purpose for which the individual was committed.'" *Id.* at 690 (quoting *Jackson* v. *Indiana*, 406 U.S. 715, 738 (1972) (brackets omitted)). "[F]or the sake of uniform administration," the Court further determined that detention for a period of six months is presumptively reasonable. *Zadvydas*, 533 U.S. at 701. After that presumptively reasonable period, if "the alien provides good reason to believe that there is no significant likelihood of removal in the reasonably foreseeable future, the Government must respond with evidence sufficient to rebut that showing." *Ibid.*

The Court emphasized in *Zadvydas* that "[a]liens who have not yet gained initial admission to this country would present a very different question," which was not before the Court. 533 U.S. at 682. Furthermore, in its analysis of the potential constitutional problem posed by detention of deportable permanent resident aliens, the Court rejected the United States' reliance on *Shaughnessy* v. *United States ex rel. Mezei*, 345 U.S. 206 (1953), even though that case "involve[d] indefinite detention." 533 U.S. at 693. In *Mezei*, the Court held that the detention of an alien who unsuccessfully sought entry into the United States but could not be removed did not violate due process. See 345 U.S. at 210-216. In *Zadvydas*, the Court stated that *Mezei* "differs from [*Zadvydas*] in a critical respect," because Mezei's detention on Ellis Island was a continuation of his exclusion rather than a successful entry into the United States. 533 U.S. at 693. The Court noted that aliens stopped at the border remain applicants seeking initial admission to the United States even if they are physically present in the country. *Ibid.* Mezei's status as an excludable alien at the border, the Court explained in *Zadvydas*, "made all the difference." *Ibid.*

3. In this case, the Ninth Circuit—in conflict with a majority of the circuits that have addressed the issue, but in agreement with the Sixth Circuit—determined that *Zadvydas*'s six-month rule requires the release from detention of an inadmissible Mariel Cuban with an extensive criminal history.

a. In June 1980, respondent arrived near Key West, Florida, and was prevented from entering the United States. Later that month, the INS granted respondent temporary immigration parole pursuant to 8 U.S.C. 1182(d)(5)(A). Gov't Supp. Mot. to Hold in Abeyance These Proceedings Pending Disposition of the Petition for Rehearing *En Banc* of *Xi* v. *INS* and the Accompanying Mot. for Expedited Consideration of the Pet., Attach. A at 2 (filed Sept. 9, 2002) (Gov't D. Ct. Supp. Mot.); see Resp.'s Sworn Statement in Exclusion Proceedings (dated 6/20/80) (contained in respondent's agency file). Respondent was convicted of numerous crimes while he was on immigration parole. In 1983, respondent was convicted of assault with intent to murder and sentenced to three years of probation. Gov't C.A. Resp. to Mot. for Summary Affirmance and Request for Summary Disposition 3 (filed July 10, 2003) (Gov't C.A. Resp.). Later in the 1980s, respondent was convicted of additional crimes including burglary. *Ibid.*; Gov't D. Ct. Supp. Mot. Attach. B at 37. In October 1996, respondent was convicted in California of petty

theft with a prior conviction and, following the revocation of his parole for that offense, was sentenced to two years of imprisonment. *Id.* at 22, 23. In July 1998, respondent was convicted in California of assault with a deadly weapon other than a firearm and sentenced to three years of imprisonment. *Id.* at 12. In July 1999, he was convicted in California of attempted oral copulation by force and sentenced to two years of imprisonment. *Id.* at 1.

In December 2000, the INS revoked respondent's immigration parole and commenced removal proceedings against him based on his criminal convictions and his lack of valid documents for entering the United States. Gov't C.A. Resp. 3-4; Gov't D. Ct. Supp. Mot. 3 and Attach. A at 1-2. In January 2001, an immigration judge determined that respondent is removable and ordered him removed to Cuba. Respondent waived an administrative appeal. Gov't C.A. Resp. 4; Gov't D. Ct. Supp. Mot. Attach. C at 1.

As required by the parole regulations applicable to Mariel Cubans, see 8 C.F.R. 212.12(g), the INS (now United States Immigration and Customs Enforcement, see note 1, *supra*) has reviewed respondent's custody status on an annual basis. After each review, respondent has been found ineligible for re-parole, as a potentially violent person and a threat to the community if released. Gov't C.A. Resp. 4; see 8 C.F.R. 212.12(d).

b. In July 2002, respondent challenged his detention in a habeas corpus petition filed under 28 U.S.C. 2241 in the United States District Court for the District of Oregon. App., *infra*, 3a. In August 2002, while respondent's habeas corpus petition was pending, the Ninth Circuit held in *Lin Guo Xi* v. *INS*, 298 F.3d 832 (2002), "that *Zadvydas* applies to inadmissible individuals" who have been stopped at the border, denied admission,

and ordered removed from the United States under the post-1996 immigration laws, *id.* at 836, and, therefore, the detention of such aliens is subject to the reasonable-time limitation and six-month presumption established by this Court in *Zadvydas*, see *id.* at 839-840.

On October 30, 2002, the district court granted respondent's habeas corpus petition and ordered the government to release respondent, subject to reasonable conditions. App., *infra*, 2a. On March 31, 2003, following the imposition of conditions of parole and identification of appropriate community placement, see 8 C.F.R. 212.12(f), respondent was released from detention. Gov't C.A. Resp. 5.

c. The court of appeals, citing its decision in *Lin Guo Xi*, *supra*, summarily affirmed the district court's decision ordering respondent's release. App., *infra*, 1a.

REASONS FOR GRANTING THE PETITION

The question in this case is whether the reasonable-time limitation and six-month presumption that this Court articulated in *Zadvydas* v. *Davis*, 533 U.S. 678 (2001), or, alternatively, 8 U.S.C. 1231(a)(6) itself, compels the release of arriving aliens like respondent, who have been apprehended at the border, denied admission to the United States, and ordered removed. A petition for a writ of certiorari that presents the same issues under *Zadvydas* and Section 1231(a)(6), in the context of an alien who was ordered removed before the enactment of the 1996 immigration amendments, is pending in *Benitez* v. *Wallis*, No. 03-7434 (filed Oct. 14, 2003), which arises from the Eleventh Circuit.

The courts of appeals are divided on the question whether *Zadvydas*'s limitation on the duration of post-removal-order detention under Section 1231(a)(6) applies to aliens who have been stopped at the border and

denied admission. The Sixth Circuit and the Ninth Circuit apply *Zadvydas*'s six-month rule to limit the detention of such aliens when there is not a significant likelihood they will be removed in the reasonably foreseeable future. See *Martinez-Vazquez* v. *INS*, 346 F.3d 903 (9th Cir. 2003) (excludable Mariel Cuban); *Arango Marquez* v. *INS*, 346 F.3d 892 (9th Cir. 2003) (same); *Rosales-Garcia* v. *Holland*, 322 F.3d 386 (6th Cir.) (en banc) (same), cert. denied, 123 S. Ct. 2607 (2003); *Lin Guo Xi* v. *INS*, 298 F.3d 832 (9th Cir. 2002) (inadmissible alien ordered removed under post-1996 law).

The Third, Fifth, Eighth, and Eleventh Circuits, by contrast, have determined that *Zadvydas* does not limit the detention of arriving aliens who have been denied admission into the United States. See *Sierra* v. *Romaine*, 347 F.3d 559 (3d Cir. 2003); *Benitez* v. *Wallis*, 337 F.3d 1289 (11th Cir. 2003), petition for cert. pending, No. 03-7434 (filed Oct. 14, 2003); *Borrero* v. *Aljets*, 325 F.3d 1003 (8th Cir. 2003); *Rios* v. *INS*, 324 F.3d 296 (5th Cir. 2003). Similarly, the Tenth Circuit has stated after *Zadvydas* that Section 1231(a)(6) preserves agency discretion whether to deny immigration parole to an excluded Mariel Cuban. *Sierra* v. *INS*, 258 F.3d 1213, 1219 (10th Cir.), cert. denied, 534 U.S. 1071 (2001). See also *Hoyte-Mesa* v. *Ashcroft*, 272 F.3d 989 (7th Cir. 2001) (rejecting, after *Zadvydas*, due process challenge to Mariel Cuban's detention), cert. denied, 537 U.S. 846 (2002).

The government has suggested that the petition in *Benitez* should be granted. The government's brief in *Benitez* (at 21) further explains that this Court's construction of 8 U.S.C. 1231(a)(6) (and 8 U.S.C. 1182(d)(5)(A)) in that case would govern the detention of aliens, like respondent in this case, who were denied admission and ordered removed under post-1996 law.

The petition in this case therefore should be held pending the Court's disposition of *Benitez* and disposed of in accordance with the Court's decision in that case.

CONCLUSION

The petition for a writ of certiorari should be held pending this Court's disposition of the petition in *Benitez* v. *Wallis*, petition for cert. pending, No. 03-7434 (filed Oct. 14, 2003), and then should be disposed of as appropriate in light of the final disposition of that case.

Respectfully submitted.

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DECEMBER 2003

APPENDIX A

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

No. 03-35053
D.C. No. CV-02-00972-OMP
District of Oregon (Portland)

SERGIO SUAREZ MARTINEZ, PETITIONER-APPELLEE

v.

JOHN ASHCROFT, ATTORNEY GENERAL, ET AL.,
RESPONDENTS-APPELLANTS

Filed: Aug. 18, 2003

ORDER

Before: SCHROEDER, Chief Judge, HAWKINS and TASHIMA, Circuit Judges

Appellee's motion for summary disposition is granted because the questions raised in this appeal are so insubstantial as not to require further argument. *See United States v. Hooton*, 693 F.2d 857 (9th Cir. 1982) (per curiam).

Accordingly, we summarily affirm the district court's judgment. *See Xi v. INS*, 298 F.3d 832 (9th Cir. 2002).

All the other pending motions are denied as moot.

AFFIRMED.

APPENDIX B

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF OREGON

CV 02-972-PA

SERGIO SUAREZ MARTINEZ, PETITIONER

v.

RONALD J. SMITH, DISTRICT DIRECTOR, DISTRICT OF OREGON, IMMIGRATION AND NATURALIZATION SERVICE, ET AL., RESPONDENTS

Filed: Oct. 30, 2002

ORDER

Petitioner's motion to dissolve stay and for immediate release (#19) is granted. Respondents' motion to hold proceedings in abeyance (#21) is denied. The petition for habeas corpus relief (#1) is granted. Respondents are ordered to release petitioner immediately subject to reasonable conditions.

DATE this 30 day of October, 2002.

/s/ OWEN M. PANNER
OWEN M. PANNER
U.S. DISTRICT JUDGE

APPENDIX C

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF OREGON

CV 3-02-00972-PA

SERGIO SUAREZ MARTINEZ, PETITIONER

v.

JOHN ASHCROFT, ATTORNEY GENERAL OF THE UNITED STATES AND RONALD J. SMITH, DISTRICT DIRECTOR, DISTRICT OF OREGON, IMMIGRATION AND NATURALIZATION SERVICE, ET AL DEFENDANTS

DOCKET ENTRIES

DATE	DOCKET NUMBER	PROCEEDINGS
7/19/02	1	Petition for Writ of Habeas Corpus (2241)—Challenge to Execution of Sentence (Federal)—. Filed by Sergio Suarez Martinez against John Ashcroft, Ronald J. Smith. (cmm,) (Entered: 07/24/2002)
7/19/02	2	Motion/Application for Leave to Proceed IFP. Filed by Sergio Suarez Martinez. (cmm,) (Entered: 07/24/2002)
7/22/02	3	Notice of Case Assignment to Judge Owen M. Panner. (cmm,) (Entered: 07/24/2002)

DATE	DOCKET NUMBER	PROCEEDINGS
07/29/02	4	**ORDER**: Order Granting Motion for Leave to Proceed IFP (Related Doc #2). Signed on 7/29/02 by Judge Owen M. Panner. (cmm,) (Entered: 07/29/2002)
		* * * * *
8/20/02	9	Brief in Support of Petition. Filed by Sergio Suarez Martinez. (Related document(s) 1) (Dahl, Christine) (Entered: 08/20/2002)
9/9/02	10	Motion for Stay *the Time for Respondents to File Their Answer to Petition.* Filed by John Ashcroft, Ronald J. Smith. (cmm,) (Entered: 09/10/2002)
9/9/02	11	Declaration of *Kenneth C. Bauman.* Filed by Johnn Ashcroft, Ronald J. Smith. (Related document(s) 10) (cmm,) (Entered: 09/10/2002)
9/9/02	12	Supplemental Motion *to Hold in Abeyance.* Filed by John Ashcroft, Ronald J. Smith. (cmm,) (Entered: 09/10/2002)

DATE	DOCKET NUMBER	PROCEEDINGS
9/11/02	13	Motion for Judgment *and Statement of Opposition to Gov'ts Motion for Stay.* Filed by Sergio Suarez Martinez. (Dahl, Christine) (Entered: 09/11/2002)
9/11/02	14	Motion for Release *Pending Final Disposition.* Filed by Sergio Suarez Martinez. (Dahl, Christine) (Entered: 09/11/2002)
9/13/02	16	**CIVIL MINUTES**: Record of Order—Hearing on Petitioner's Motion for Release is set for 9/30/2002 at 01:30 PM in Portland. Government's response due by 9/23/2002. Ordered by Judge Owen M. Panner. (cmm) (Entered: 09/17/2002)
9/18/02	17	**CIVIL MINUTES**: Record of Hearing—Respondent's Motion to Stay Time to File Answer is granted and a thirty day stay is issued. Simultaneous briefs due by 10/18/2002 on court's authority to impose[] conditions on release of Petitioner. Hearing reset for 10/28/2002 at 01:30 PM in Portland. Ordered by Judge

DATE	DOCKET NUMBER	PROCEEDINGS
		Owen M. Panner. Counsel Present for Plaintiff: Christine Stebbins Dahl. Counsel Present for Defendant: Ken Bauman. Court Reporter: Dennis Grube. (cmm,) (Entered: 09/19/2002)
10/11/02	18	Exhibits *to Petition for Writ of Habeas Corpus Pursuant to 28 U.S.C.* [§] *2241.* Filed by Sergio Suarez Martinez. (Attachments: #1) (Related document(s)1) (Dahl, Christine) (Entered: 10/11/2002)
10/15/02	19	Motion *for Order Dissolving Stay and Directing the INS to Release Him From Indefinite Detention.* Filed by Sergio Suarez Martinez. (Attachments: #1) (Dahl, Christine) (Entered: 10/15/2002)
10/18/20	21	Motion *to Hold in Abeyance These Proceedings Pending the Solicitor General's Decision Whether to Seek Further Review in XI v. INS.* Filed by John Ashcroft, Ronald J. Smith. (cmm,) (Entered: 10/22/2002)

DATE	DOCKET NUMBER	PROCEEDINGS
		* * * * *
10/21/02	23	**CIVIL MINUTES:** Record of Order—Hearing set on Respondent's Motion to Hold in Abeyance Proceedings Pending the Solicitor General's Decision[ ] whether to Seek Further Review in XI v. INS (Doc #21) for 10/28/2002 at 01:30 PM in Portland. Ordered by Judge Owen M. Panner, (cmm) (Entered: 10/24/2002)
10/22/02	22	Response to Motion *OF THE INS TO HOLD THESE PROCEEDINGS IN ABEYANCE.* Filed by Sergio Suarez Martinez. (Related motion(s)21) (Dahl, Christine) (Entered: 10/22/2002)
10/30/2002	24	Order granting Petitioner's Motion to Dissolve Stay and for Immediate Release (Doc #19). Respondent's Motion to Hold Proceedings in Abeyance (Doc #21 is denied. Petition for Habeas Corpus relief is granted. Respondents[] are order[ed] to release petitioner immediately subject to reasonable conditions.

DATE	DOCKET NUMBER	PROCEEDINGS
		Signed 10/30/02 by Judge Owen M. Panner. (Related document(s) 19, 21, 1) (cmm) (Entered: 10/30/2002).
11/11/02	25	Motion for Order to Show Cause *(To Enforce Release Order and for Order to the INS to Show Cause Why it Should Not Be Held in Contempt of Court).* Filed by Sergio Suarez Martinez. (Dahl, Christine) (Entered: 11/11/2002)
11/11/02	26	Emergency Motion for Issuance *of the Writ.* Filed by Sergio Suarez Martinez. (Dahl, Christine) (Entered: 11/11/2002)
11/11/02	27	Affidavit of *Dahl & Deffebach.* Filed by Sergio Suarez Martinez. (Related document(s) 25, 26) (Dahl, Christine) (Entered: 11/11/2002)
11/11/02	28	Motion to Strike *$7,500 Bond and Halfway House Condition.* Filed by Sergio Suarez Martinez. (Attachments: #1 Exhibit A #2 Exhibit B (Release Order) #3 Exhibit C (transcript of May

DATE	DOCKET NUMBER	PROCEEDINGS
		3 2000 #4 Exhibit D (Transcript of June 5 2000) #5 Exhibit E (Order Striking Bond) #6 Exhibit F (Mtn Strike in Barrientos) (Dahl, Christine) (Entered: 11/11/2002)
11/12/02	29	**CIVIL MINUTES:** Record of Order—Hearing set for 11/14/2002 at 10:30 AM in Portland. Ordered by Judge Owen M. Panner. (cmm,) (Entered: 11/15/2002)
11/14/02	31	**CIVIL MINUTES:** Record of Hearing: Parties may file Additional Briefing within 5 days. Court will then rule on Petitioner's Emergency Motion for Issuance of Writ (#26), Motion to Enforce Release Order to Show Cause (#25) & Motion to Strike Bond & Halfway House Condition. Ordered by Judge Owen M. Panner. Court Reporter: Paula Tieger. (Kirk) (Entered: 11/22/2002)

DATE	DOCKET NUMBER	PROCEEDINGS
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11/20/02	30	Supplemental Memorandum in Support. Filed by Sergio Suarez Martinez. (Attachments: #1 Exhibit F (Sisalao) #2 Exhibit G (Rithy) #3 Exhibit H (Wong) #4 Exhibit I (Aphayavong) #5 Exhibit J (Barrientos Supplemental Memo of Law)) (Related document(s) 25, 26, 28) (Dahl, Christine) (Entered: 11/20/2002)
11/21/02	32	Reply to Motion-*Reply to Petitioners Emergency Motion for Issuance of Writ, Motion for OSC, & Motion to Strike.* Filed by John Ashcroft, Ronald J. Smith. (Related motion(s) 28, 25, 26) (Kirk,) (Entered: 11/22/2002)
11/27/02	33	Notice of *Supplemental Authority.* Filed by Sergio Suarez Martinez. (Attachments: #1) (Dahl, Christine) (Entered: 11/27/2002)
12/30/02	34	Notice of Appeal to USCA from order #24 entered on 10/30/02. Filed by federal respondents Ronald Smith and John Ashcroft. (fh,) (Entered: 01/09/2003)
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DATE	DOCKET NUMBER	PROCEEDINGS
1/27/03	38	Docket number 03-35053 as signed by the United States Court of Appeals. USDC Notice of Appeal Doc. #34. (fh,) (Entered: 03/11/2003)
		* * * * *
1/31/03	37	Status Report *REGARDING THE EFFECT OF THE INS'S BOND REQUIREMENT ON THE COURT'S RELEASE ORDER.* Filed by Sergio Suarez Martinez. (Attachments: #1 Exhibit A (INS fax) #2 Exhibit B (correspondence)) (Dahl, Christine) (Entered: 01/31/2003)
4/01/03	39	Notice *Of Mootness of Motion to Strike Bond.* Filed by Sergio Suarez Martinez. (Related document(s) 25, 26, 28) (Dahl, Christine) (Entered: 04/01/2003)

DATE	DOCKET NUMBER	PROCEEDINGS
4/03/03	40	**MINUTE ORDER:** Record of Order: Based on Petitioner's Notice of Mootness of Motion to Strike Bond (#39), Petitioner's Motion for an Order to Show Cause (Related Doc #25), Emergency Motion for Issuance of the Writ (Related Doc #26), and Motion to Strike Bond (Related Doc #28) are WITHDRAWN by Judge Owen M. Panner (Related document(s) 39 (kw,) (Entered: 04/04/2003)
8/20/03	41	Order from Ninth Circuit Court of Appeals: Court summarily affirms the district court['s judgment. USDC Notice of Appeal Doc. #34 and USCA #03-35053 . . . (fh,) (Entered: 09/04/2003)